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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-sixth session

SUMMARY RECORD OF THE 686th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 18 January 2001, at 3 p.m.

Chairperson: Mrs. OUEDRAOGO

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Lesotho (continued) (CRC/C/11/Add.20; CRC/C/Q/LES/1; written replies of the Government of Lesotho to the questions in the list of issues (document without a symbol distributed in the meeting room in English only))

1. At the invitation of the Chairperson, the members of the delegation of Lesotho resumed places at the Committee table.

2. Ms. LEBOTSA (Lesotho) said that children under the age of 18, once married, were considered to have reached the age of majority, and were therefore no longer entitled to protection under the Children's Protection Act. Replying to a question about orphans' rights to property inheritance, she said that an orphan's estate was protected by law and administered by the Master of the High Court on his or her behalf.

3. It was difficult for single mothers to acquire travel documents for their children. Since women were equivalent to minors in legal terms, they required the support of a male in order to obtain official documents. That led single mothers to seek assistance either from the child's father or even from complete strangers.

4. In reply to a question concerning the discriminatory nature of section 18, subsections (a) and (b) of the Constitution, she said she was unable to give a detailed account of the issue of citizenship without first consulting the relevant ministry, while a recommendation had been made to parliament to amend subsection (b) in the light of the proposed Married Person's Equality Bill.

5. According to the definition her delegation had received from the United Nations, female genital mutilation did exist in Lesotho, but the Ministry of Health would need to carry out a study in order to assess its impact on motherhood. She asked the Committee to bear in mind that female genital mutilation took place within the framework of initiation schools, which traditionally played an important role in rural communities.

6. There was currently no legal protection for single mothers and their children, but the country programme of cooperation between the Government of Lesotho and UNICEF for the period 2002 to 2006 contained plans to develop legislation in that regard.

7. Mr. MAEMA (Lesotho) said that his delegation would need to consult the relevant ministry for precise statistics in order to reply to Mr. Doek's question concerning bilateral and multilateral aid. He agreed that the use of violence to instruct children was, in principle, unacceptable, but there were currently no plans to criminalize corporal punishment.

8. Ms. MOHLABANE (Lesotho) said that children with behavioural problems tended to be placed in institutions or prisons because there were no specialized rehabilitation centres and because families lacked the necessary support to take care of such children themselves. The revision of the Children's Protection Act currently being carried out by the Law Reform

Commission would lead to new legislation to assist children with behavioural difficulties. Steps would be taken progressively to reduce the use of prisons in favour of community-based treatment.

9. Prison staff did not receive specialized training. Nevertheless, corporal punishment of prisoners was not used as an ad hoc measure, since only the courts had the power to give the order for it to be used.

10. Ms. CHISEPO (Lesotho) said that the National AIDS Strategy did not include specific measures to assist children affected by poverty, but her delegation would try to ensure that changes were made in order to take the Committee's suggestions into account.

11. A Social Welfare Policy Framework was currently being drafted which would propose new guidelines on the placement of children in institutions. It would also include a recommendation to establish a support fund for foster families, since economic pressures often prevented couples from volunteering to be foster parents. Nevertheless, there had not been as large an increase in the number of children seeking foster parents as the table provided in the written replies seemed to suggest. Rather, the statistics provided in the initial report were inaccurate, as they had been compiled before the decentralization of social welfare services had facilitated the collection of data.

12. Girls who became pregnant before completing their schooling were currently expelled, while the same punishment did not apply to boys who became fathers. The Social Welfare Policy Framework would include provisions to allow girls to return to education after childbirth.

13. Reform of the health-care system was in progress, particularly with a view to improving the infrastructure, but the objective of providing free health care for all was currently far from achieved.

14. There was no comprehensive plan to address the problems of disabled children, but they were being considered in the context of the health reforms. A survey was due to be carried out at the national level in order to identify the precise needs of disabled people.

15. Mr. MAEMA (Lesotho) said that the failure to register children at birth was frequently caused by ignorance as well as a lack of institutional capacity. Registration services had recently been decentralized to facilitate the process, so it was to be hoped that the situation would shortly improve.

16. In reply to questions concerning police brutality, he said that Lesotho had been governed by a dictatorship, under which law enforcement officials were completely unaccountable, until as recently as 1993. The restructuring programme that had begun since then was an enormous task which would take many more years to complete. Nevertheless, several investigations were in progress concerning cases of police brutality.

17. Ms. LEBOTSA (Lesotho) said, in reply to questions concerning the status of the Convention, that international agreements were not self-executing in Lesotho, and thus required legislation to incorporate them into national law. In addition, the Commonwealth countries had

adopted the Bangalore Principles in 1988 and the Harare Declaration of Human Rights in 1989, which gave guidelines for the application of international treaties. Accordingly, the competent administrative bodies should refer to international standards in cases where domestic law was ambiguous or silent, but should give priority to national legislation wherever conflict arose. The Law Reform Commission had created a number of subcommissions, each responsible for establishing an agenda for legislation to address in one specific area. They would also identify the type of research work still required in order to bring domestic law into line with international standards.

18. Mr. MAEMA (Lesotho) said that the incorporation of international treaties into domestic law was being done in a consistent, though not entirely systematic, manner.

19. Mr. DOEK said he suspected that the figure of 17 reported cases of child abuse and neglect in the family in 1997 failed to reflect the real situation in the country and asked whether there was any programme to address the issue, such as awareness-building among social workers and parents or a reporting system. Had any action been taken on corporal punishment within the family?

20. With regard to education, he was struck by the fact that, according to the figures submitted by the State party, while 3,000 more boys than girls were enrolled in the first grade of primary education in 1997, 6,000 more girls than boys were enrolled in the seventh grade, the implication being that there was a high drop-out rate among boys. The same applied to secondary education. He was interested to hear what action the Government was taking to address that problem. On what basis were grants awarded to offset school fees?

21. He was alarmed by the figures for juvenile crime: 60 male children had been arrested for armed robbery in 1996/1997 and 197 in 1998/1999; 758 had been arrested for murder in 1996/1997 and 1,130 in 1998/1999. The figures were remarkable not only in absolute terms but also in terms of the increase recorded. Over the same period, however, the number of children in detention had declined. In fact, there had been only 127 in detention in 1999. He wondered whether the delegation could account for the discrepancy.

22. He understood from paragraphs 112, 113 and 115 of the report that juveniles and adults were not segregated either in police custody or in pre-trial detention. Were there plans to remedy that situation?

23. He inquired about the practical procedure followed when children were arrested for an offence such as armed robbery. In particular, he wished to know whether their parents were informed without delay, under what conditions they were held in police custody and pre-trial detention, how soon they were brought before a judge and what criteria were applied with regard to sentencing, probation, etc.

24. Mr. FULCI noted that the minimum legal age for employment in Lesotho was 14. However, it had been reported that children under the age of 14 were employed in the textile and garment sector and in family-owned businesses. Furthermore, although there was a strict statutory prohibition on the employment of minors in enterprises involving dangerous work, he understood that enforcement was lax because the Inspectorate of the Ministry of Labour and

Employment was severely understaffed. In rural areas, young shepherds were apparently required to prove their virility by working under extremely dangerous conditions. Was that allegation true? He asked whether Lesotho intended to become a party to the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182).

25. According to the United States Department of State Human Rights Report for 1999, smugglers of illegal immigrants, primarily from South and East Asia, took advantage of Lesotho, whose law did not expressly prohibit trafficking in persons, to convey persons temporarily to South Africa for onward transport to Europe and North America. It was not clear whether the criminal organizations concerned were transporting persons for purposes of servitude, slavery or forced labour but it was suspected that most of the persons in their charge were poor economic migrants seeking employment in countries in the northern hemisphere. He would welcome any comments that the delegation could make on the allegation of trafficking of foreigners in Lesotho.

26. Ms. MOKHUANE asked whether any studies had been undertaken of patterns of morbidity and mortality resulting from the practice of traditional circumcision of boys and whether there was any government policy on circumcision and initiation rites. Had the issue of adolescent sexual health been considered and, if so, what was the outcome?

27. According to the report, parents failed to make full use of health services for reasons related to custom. She would be interested to learn whether the phenomenon had been studied in order to establish the reasons for their reluctance. Was there any indication that factors such as access to services, friendliness of staff and availability of drugs constituted an impediment to service-rendering?

28. She understood that the emigration of health-care personnel to South Africa had created problems for Lesotho and asked whether a strategic plan had been developed to meet the shortage. She would also welcome recent figures on the ratio of doctors and nurses to the population and information about measures to train additional professional staff. She suggested that incentives might be offered to personnel in areas where shortages were most acute.

29. How were village health workers accommodated in the health-care reform programme?

30. Referring to the double victimization problem in rape cases, she inquired about measures to ensure confidentiality for rape victims giving evidence in court and asked whether magistrates had been trained in techniques for interviewing children.

31. Given the importance of pre-school education, she was concerned about the lack of information on pre-school facilities in the report. She would welcome information about the Government's policy in that regard.

32. Mr. RABAH drew attention to a long list of allegations of discrimination, inter alia on grounds of gender, religion, tribe and national origin, in the complementary report on the implementation of the Convention submitted by the NGO Coalition for the Rights of the Child. He invited the delegation to respond to the allegations.

33. He asked whether the phenomenon of street children existed in Lesotho and, if so, what were its causes and how were the children treated. Had any statistics been compiled?

34. He asked whether the procedures for treating juvenile offenders had been brought into conformity with the Convention and, if not, whether there were plans to introduce corresponding legislation. It was essential to make provision for rehabilitation centres, legal aid and social assistance for juvenile offenders. Female juvenile offenders should be segregated from adults in women's prisons. Unfortunately, prisons tended to be a school for crime and juveniles could be adversely influenced where they were in direct contact with adult criminals.

35. Ms. TIGERSTEDT-TÄHTELÄ said that the report indicated that the four basic principles enshrined in the Convention were not well known in Lesotho: article 2 on non-discrimination, article 3 on the best interests of the child, article 6 on the right to life, survival and development, and article 12 on respect for the views of the child. Those principles should shape attitudes to children's rights, also among the general public, and should underlie any new legislation. They called for prioritization of children's rights and involvement of children in dialogue and negotiation at all levels.

36. The Human Rights Committee, in its concluding observations on the initial report of Lesotho (CCPR/C/79/Add.106), had expressed concern about restrictions on freedom of movement, expression, peaceful assembly and association, and about discriminatory legislation, including customary laws. She invited the delegation to comment on the general human rights situation.

37. Ms. RILANTONO referred to allegations that the religious education provided in schools was not always appropriate and that the curriculum, especially in church-run schools, was not supervised in all cases by the Government. She inquired about the content of the religious syllabus in State-run schools. According to the complementary report by the NGO Coalition, children were not free to choose their place of worship. If parents changed churches, the children had to follow, even if they liked the church they were attending. Sometimes church schools allegedly told children of other denominations that the school was full even though places were still available. Persons with traditional beliefs or who attended traditional doctors were called witches and risked having their house burnt down by other villagers. Children who attended circumcision schools were often expelled from their regular school. What measures were being taken by the Government to enhance tolerance between religious groups?

38. Ms. KARP inquired about the attitude of church-run schools to pregnant girls. If the Government found that girls' rights were being violated in such schools, which benefited from government grants, could it use its authority to persuade them to change their ways? She suggested that special schools should be established for girls who had become pregnant if no other solution could be found.

39. She was interested to learn how a traditional society dealt with the question of education for reproductive health. Given existing taboos, also on the whole issue of AIDS, she wondered whether any special measures had been taken to convince those responsible for imparting or promoting such education of its usefulness.

40. She had been interested to hear at the previous meeting about the "adolescent corners" counselling system and asked whether they existed throughout the country or only in towns.

41. She asked whether it was true that poor administration of inheritance laws and the intrigues of unscrupulous persons with inside knowledge could result in the impoverishment of orphans.

42. In view of the huge task that would be involved in ensuring full implementation of the Convention in Lesotho, she asked whether the Government had identified areas, such as juvenile justice or the rehabilitation of abused children or street children, in which technical assistance would be welcome.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

43. Mr. MAENA (Lesotho) said that little mention was made of adoption in customary law; in practice, however, children were taken in by the extended family and the matter was neither registered nor even discussed. Section 14 of the Adoption Proclamation of 1992 had given it a very restricted interpretation, which had unfortunately set a precedent. In June 1998 the Chief Justice had declared it unconstitutional. The Department of Social Welfare processed both national and intercountry adoptions. National adoptions were increasing and, in the case of intercountry adoptions, there was a system whereby social workers of the country of the adoptive parents provided monitoring and supervision for the first two years; thereafter, feedback was obtained from written reports.

44. Ms. LEBOTSA (Lesotho), referring to child abuse and neglect, said that the Ministry of Justice, with the cooperation of a local NGO, had produced a radio drama on domestic violence which explored the escalating problem of incest. It had been broadcast during a popular current affairs programme.

45. A programme on assistance with school fees, had been introduced three years before, with a special fund provided by the Central Planning Ministry from its programme of safety-net funding. The grants were managed by the Department of Social Welfare and were provided to the very poor who applied for assistance. The eligibility criterion was based on family income, which had to be less than US$ 7.00 a month. That represented the amount of public assistance given to indigent peasants.

46. Ms. MOHLABANE (Lesotho) said that some of the questions relating to juvenile justice had been answered in writing in a document to be distributed. In reply to the question on what measures had been taken to ensure that young offenders were not put in adult prisons, she said that Lesotho was composed of 10 districts and the only young people's prison, the Juvenile Training Centre, was in the capital, Maseru. Therefore, one or two young offenders could be found in some adult prisons in the districts, either on remand or sentenced to a prison term, because, in cases of remand, it was difficult to transfer them to Maseru and, even when they were sentenced to a prison term, at times the families requested that they should not be transferred in order to be able to continue visiting them.

47. A concern had been expressed that young female prisoners were placed with adult women and wore the same uniform. The probation officers were aware of the problem and had tried to change the procedure. However, prisons now had their own rehabilitation officers who were not as sensitive to the problem. On her return, she would ask the Chief Rehabilitation Officer to discuss the situation with the prison authorities and make them aware of the need to modify conditions for young female prisoners.

48. Concerning the treatment given two boys who had committed a theft at gunpoint, the offence might be processed according to the Children's Protection Act, which conformed to the Convention. Other contradictory legislation existed, however, and magistrates were free to choose which laws to invoke. Under the Children's Protection Act, children could not be kept in pre-trial detention for more than 48 hours before being taken before a judge and cases were handled differently from those involving adults; they were held in camera and the names of the young offenders were not disclosed. When the sentencing stage was reached, a probation officer was required to prepare a pre-sentencing report, which included information on the child's social background and recommendations on the sentence that should be imposed; for example, the offenders might be sentenced to probation under the supervision of the parents or the village chief, who would be assisted and counselled by the probation officer.

49. Mr. DOEK asked whether children had the right to legal assistance and what was the role of parents in a legal procedure.

50. Ms. MOHLABANE (Lesotho) said that juvenile offenders usually came from very poor families. If the parents sought the assistance of a lawyer, they would have to pay for it. However, if the probation officer sought legal advice from Legal Aid, which was a branch of the Ministry of Justice, it was provided free of charge. In Lesotho, the probation officers carried out a great deal of the preparatory work for cases involving minors, and it would be interesting to know more about the system in other countries.

51. Parents played a very important role in the juvenile justice system and the courts would not hear a case involving a child unless the parents were present. Moreover, in many cases, the police preferred to return juvenile offenders to the parents for supervision, pending a court case, rather than hold them in custody. There were currently few specific rules governing the situation, but the new legislation would regulate the administration of juvenile justice.

52. Mr. MAENA (Lesotho) said that a study on the socio-cultural implications of circumcision had been conducted recently. The Government was aware that certain problems existed and a draft bill on male circumcision had been introduced by the Ministry of Health - the Lesotho traditional medical practitioners bill - which had various provisions to control circumcision schools and the practices of traditional doctors, and established penalties in cases where the provisions were not followed. For example, there were reports that underage children had been admitted to circumcision schools, and the new bill prohibited admission of children under 18 years of age.

53. With regard to the allegation in the 1999 Country Report on Human Rights Practices, published by the United States Department of State, that illegal immigrant smugglers were using Lesotho as a transit country for trafficking in persons, he said the Government would examine the situation and take the necessary measures.

54. Ms. CHISEPO (Lesotho) said that the village health worker programme would be improved under the health reform programme. The programme included a district health package which entailed training village workers in new health issues, such as the early diagnosis of children with disabilities; the home-based care of persons with AIDS and, in particular, the care of AIDS orphans. They would also be trained to act as auxiliary social workers, because currently social workers worked at the district level rather than the grass-roots level.

55. While no studies had been conducted on the causes of suicide, from her contacts with persons with suicidal tendencies she believed that in many cases such behaviour resulted from frustration related to personal trauma such as incest. As State social services were inadequately staffed to deal with the problem of street children, NGOs provided most services, including counselling. The Government recognized the useful work done by NGOs in rehabilitating such children and reuniting them with their families, and provided annual grants to them in support of their work.

56. Ms. LEBOTSA (Lesotho), addressing a question put by Mr. Fulci, said that the labour inspectorate did not have sufficient staff to enforce the labour laws which set the minimum age of 14 for employment. The working group of the Government and UNICEF which had drawn up the programme of work for 2002-2006 had discussed that problem. However, the phenomenon was not exclusively due to a lack of resources in the labour inspectorate. The main reason for it was underlying poverty. Some children worked because they needed income to finance their education. Mr. Doek had raised questions about the statistics in the written replies pertaining to offences committed by minors and the number of minors detained. All the statistics kept by the various services, including the police and the Department of Prisons, were maintained independently, with no reconciliation between the services. None of the statistical services were computerized. That was one reason why the Attorney-General, Mr. Maema, had called for technical cooperation in the compilation of a database. Another reason for the discrepancy might have been that some cases were settled at the pre-trial stage, or out of court.

57. While she was not a member of the bench, she knew that the double victimization of rape victims was a serious problem. A number of NGOs had called on the Government to address the issue of confidentiality and to take measures to increase the sensitivity of male judges in such trials. In some cases rape victims had been humiliated to the point of tears. One problem was the lack of detail in reports filed by medical officers, which made them insufficient as legal evidence of rape. She took note of the Committee's concern and would communicate it to the Government.

58. The question relating to the extension of pre-school education would be transmitted to the Ministry of Education. Gender discrimination existed in Lesotho culture and in Roman-Dutch law. Women, especially those who married under the "community of property" regime, had to seek their husbands' consent to enter into contracts or take out loans from banks. The Constitution upheld the application of customary law in matters relating to personal law, burial

and devolution of property. The society was strongly patriarchal in nature and was still very traditional, and many discriminatory customs were widely respected. While she could not say what the chances were for extensive change in the future, some families had begun naming their children for relatives from the maternal side, which differed from the traditional practice. The surname, however, was always taken from the father.

59. Ms. CHISEPO (Lesotho) said that there were currently three health corners, one in the capital and one each in the north and south. There were plans to open seven more by June 2001, so that one health corner would serve each district.

60. Mr. DOEK summarized the Committee's consideration of the initial report and presented ideas for the drafting of concluding observations.

61. The CHAIRPERSON noting the constructive dialogue that had taken place between the Committee and the delegation, expressed the hope that the Committee's concluding observations and recommendations would contribute to the effective protection of children's rights in Lesotho. The presence in the delegation of a minister in charge of one of the State services directly involved with child welfare would have been a welcome sign of the Government's desire to give effect to the Convention. She trusted that the delegation would transmit to the competent authorities the Committee's recommendations and concerns, and asked that the State party widely disseminate the Convention, the initial report and replies to the list of issues, as well as information on the current meeting.

The meeting rose at 6.05 p.m.